



COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

**DEPARTMENT OF
TELECOMMUNICATIONS & ENERGY**

ONE SOUTH STATION
BOSTON, MA 02110
(617) 305-3500

JANE SWIFT
GOVERNOR

JENNIFER DAVIS CAREY
DIRECTOR OF CONSUMER AFFAIRS
AND BUSINESS REGULATION

JAMES CONNELLY
CHAIRMAN
W. ROBERT KEATING
COMMISSIONER
EUGENE J. SULLIVAN, JR.
COMMISSIONER
PAUL B. VASINGTON
COMMISSIONER
DEIRDRE K. MANNING
COMMISSIONER

Issued: September 4, 2001

Barbara Anne Sousa
Regulatory Counsel
Verizon Massachusetts
185 Franklin Street
Boston, MA 02110-1585

Anthony Petrilla
Covad Communications Company
Hamilton Square
600 14th Street, N.W., Suite 750
Washington, D.C., 20005-2088

RE: D.T.E. 98-57-Phase III-C - Letter Order on Joint Motion by Verizon
Massachusetts and Covad Communications Company for Entry of Order
According to the Terms as Stipulated by the Parties

Dear Ms. Sousa and Mr. Petrilla:

On July 27, 2001, Verizon Massachusetts ("Verizon") and Covad Communications Company ("Covad"), filed with the Department of Telecommunications and Energy ("Department") a Joint Motion for Entry of Order According to the Terms as Stipulated by the Parties ("Motion"). In their Motion, Verizon and Covad request that the Department approve language for Tariff No. 17 that relates to service and installation intervals for provisioning line sharing collocation augmentations.

On July 31, 2001, the Department requested comments on the Motion from all parties to D.T.E. 98-57-Phase III and supplementary information from Verizon and Covad to explain further the provisioning activities listed under the intervals proposed in the Motion. On

August 8, 2001, Verizon and Covad supplemented their Motion (“Supplemental Filing”). No party filed comments or opposition to the Motion.

As a matter of policy, the Department encourages parties to avoid time-consuming and costly litigation by reaching settlement at the earliest possible stage in a dispute. Boston Gas Company, D.P.U. 96-50-C (Phase I), at 8 (1997); Berkshire Gas Company, D.P.U. 89-112/89-1121/89-1122/89-1123/89-1124, at 8 n.1 (1989). Although Verizon and Covad have reached a settlement on the issue of collocation augmentation intervals, the Department still must evaluate whether the terms of all stipulations reached are just and reasonable. G.L. c. 159, §§ 14, 17; New England Telephone and Telegraph Company, D.P.U. 90-206-B/91-66-B, at 11-12 (1993). To that end, the Department has reviewed the Motion, and the illustrative tariff attached to the Motion, and finds as follows:

On September 29, 2000, the Department issued an Order establishing a 40 business day collocation augmentation interval for line sharing arrangements.¹ On January 8, 2001, the Department granted Verizon’s motion to reconsider this interval and set an interim interval of 68 business days, until the Department could determine the final interval after receiving further information from the parties on the necessary activities for line sharing collocation augmentation requests and the associated sub-intervals.²

Verizon and Covad propose to revise the language of Tariff No. 17, Part E, Section 1.1.2.A to establish a 45 business day interval for eight types of line sharing collocation augmentation requests, where the necessary infrastructure is installed and available for use, to be implemented according to the terms agreed to on June 19, 2001, by the carriers participating in the New York Carrier Working Group (“CWG”)³ (Motion, exh. I). The agreement sets forth eight sub-intervals with associated collocation tasks, as well as certain “clock-stops” that account for delays that are outside the control of Verizon (Motion, exh. II (“CWG Timelines, Requirements and Guidelines”)). For collocation augmentations not included in the CWG agreement, the interval remains 76 business days (Motion at 2). The proposed revision to

¹ D.T.E. 98-57-Phase III, at 59 (2000).

² D.T.E. 98-57-Phase III-A, at 21-22 (2001). Verizon’s average interval for completing all augmentation requests in Massachusetts for the first half of the year 2000 was 68 business days. Id. at 21.

³ The New York Public Service Commission (“NYPSC”) established the CWG in N.Y.P.S.C. 97-C-0139 to serve as a forum for CLECs to discuss issues related to Verizon New York’s provisioning of wholesale services. The NYPSC directed the CWG to establish task-related intervals for collocation augmentation work orders. N.Y.P.S.C. 00-C-0127, at 7 (January 29, 2001).

Section 1.1.2.B provides that Verizon will inform the CLEC by Day 8 whether the 45-day interval or the 76-day interval applies (CWG Timelines, Requirements and Guidelines at 1).

Verizon reported that between October 1, 2000 and April 30, 2001, Verizon provisioned line sharing or line splitting specific augmentations within an average interval of 65 business days (Testimony of Lynelle Reney and James Virga at 5 (May 22, 2001) (“Reney/Virga Testimony”)).⁴ For line sharing or line splitting augmentations that involved additional activities (such as providing DC power, additional space, or DS1, DS3, or voice grade facilities), the average interval during the same period was 75 business days (*id.*). Verizon and Covad further indicated that Verizon does not yet have any direct experience in provisioning line sharing collocation augmentations within the shorter 45 business day interval, but that the CWG agreement allows Verizon sufficient time to achieve Verizon’s on-time objective, *i.e.* beginning with an 80 percent on-time goal and increasing to a 95 percent on-time goal within six months (Supplemental Filing at 2).

The Department finds that the proposed tariff language and proposed intervals described in the CWG Timelines, Requirements and Guidelines are reasonable, because the proposed intervals recognize that certain line sharing collocation augmentation requests are simpler to provision and require much less time than requests for a new physical collocation arrangement. Furthermore, the 45 business day interval for those requests is significantly shorter than Verizon’s previous interval, yet allows Verizon sufficient time to improve its performance in order to achieve the shorter interval reliably. Given that many of the participants in this proceeding are also participants in the CWG, which agreed to the CWG Timelines, Requirements and Guidelines, and no party objected to or commented on Verizon and Covad’s Motion, the Department concludes that the parties to this proceeding are satisfied with the proposed intervals. In determining the reasonableness of tariff provisions governing the relationship between a wholesale supplier and its customers, the lack of opposition to those provisions by CLECs is persuasive of their reasonableness.

We have reviewed the stipulated terms set forth in the Motion, and we find that they are just and reasonable. Accordingly, pursuant to our general powers under G.L. c. 159, §§ 14 and 17, and c. 30A, § 10, the Department grants the Motion and approves the illustrative tariff page.⁵ In accordance with 220 C.M.R. § 1.10(8), the stipulated terms shall be incorporated

⁴ In these cases, line sharing or line splitting facilities were added to an existing physical collocation arrangement (Reney/Virga Testimony at 5).

⁵ Although the illustrative tariff incorporates “terms and conditions approved by the Carrier Working Group” by reference, this Order applies only to the CWG terms and conditions as of the date of this Order. The Department notes that the CWG discussions are ongoing. Should the CWG approve terms and conditions that are materially

(continued...)

into this Order. Furthermore, the Department directs Verizon Massachusetts to file within ten days of the date of this Order, a compliance tariff consistent with the findings contained herein.

By Order of the Department,

/s
James Connelly, Chairman

/s
W. Robert Keating, Commissioner

/s
Paul B. Vasington, Commissioner

/s
Eugene J. Sullivan, Jr., Commissioner

/s
Deirdre K. Manning, Commissioner

cc: Service List in D.T.E. 98-57-Phase III

⁵ (...continued)
different from those terms outlined in the illustrative tariff, the CWG Timelines, Requirements and Guidelines, and the Supplemental Filing, the Department directs Verizon to file a copy of such new terms for the Department's review and approval. Such filing must be made with the Department no later than ten days after such an agreement.